

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 91 CR 53
	)	
RUDY MARTINEZ,	)	
	)	
Defendant.	)	

MEMORANDUM ORDER

As the case number in the caption reflects, nearly two decades have elapsed since the conviction and sentencing of Rudy Martinez ("Martinez"). Nonetheless Martinez, who is serving both a life sentence and a concurrent 330-month sentence for drug offenses, only recently attacked his sentence (but not his conviction) by what he labeled his "Motion To Correct Illegal Sentence under Fed. R. Crim. P. 35."

This Court's December 20, 2010 memorandum opinion and order ("Opinion") explained why Martinez could gain no relief under that rule. Nothing daunted, Martinez has now filed what he captions "Motion for Relief from Final Judgement Order or Proceeding Pursuant to 60(b)(6)-(d)(1)."

Even apart from the obvious substantive and procedural problems posed by such a belated effort in terms of Fed. R. Civ. P. ("Rule") 60 and the caselaw applying it, Martinez fails to recognize that Rule 60 applies to civil proceedings and not to criminal prosecutions. As such, it can offer him no solace when

Fed. R. Crim. P. 35--which deals directly with "Correcting or Reducing a Sentence"--affords him no relief. In short, more than one reason dooms Martinez' effort to repackage his earlier arguments under a different label--an effort to reverse the aphorism in Matthew 9:17 by putting old wine into a new bottle. Martinez' current motion is denied.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style with a large initial 'M'.

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Milton I. Shadur  
Senior United States District Judge

Date: February 25, 2011